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July 9, 2015

Hon. Brian M. Cogan
United States District Judge
Eastern district of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: **Robinson et al v. Arzberger,
15-cv-3746 (BMC)**

Dear Judge Cogan:

Counsel for Plaintiffs and Defendant submit this joint letter in advance of the initial status conference scheduled for July 14, 2015. Plaintiff's statement is presented first, followed by defendant's.

Plaintiffs' Claims

This action arises out of an alleged assault on plaintiff Pamela Robinson by defendant, Stephan Arzberger, a world renowned violinist. Ms. Robinson was a guest in the Hudson Hotel in Manhattan when defendant, also a guest of the hotel, allegedly forced his way into Ms. Robinson's room and assaulted her. Mr. Arzberger is currently being criminally prosecuted by the New York County District Attorney's Office for his assault of Plaintiff under New York County Indictment Number 2295-2015.

In this action, plaintiff Pamela Robinson alleges state law claims of assault, battery, false imprisonment, and intentional infliction of emotional distress against Mr. Arzberger. A derivative claim of loss of society, services, consortium, and companionship is raised by Pamela's husband, John.

As none of the parties to this action is domiciled in New York, plaintiffs commenced this action in Kings County Supreme Court pursuant to CPLR 503(a). Defendant removed this matter to federal court based upon complete diversity of citizenship (Plaintiffs are citizens of North Carolina and Defendant is a citizen of Germany) and the amount of damages sought being in excess of \$75,000 (see Notice of Removal, Doc 1).

Plaintiffs contemplate moving, under FRCP 12(f), to strike certain of the affirmative defenses raised in defendant's Answer. Namely, plaintiffs contemplate moving to strike defendant's First, Third, Fifth, Sixth, Seventh, Eighth, Tenth, and Twelfth affirmative defenses. Plaintiffs do not concede the merit of any of defendant's

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affirmative defenses for which they presently do not seek to strike. Additionally, depending on discovery, plaintiffs also contemplate moving for partial summary judgment on the issue of liability at the appropriate time.

Defendant's Claims

Stefan Arzberger, a 42-year old German citizen, with no criminal record left his Hotel room at 7:45 AM and knocked on the door to Plaintiff's neighboring room. When Plaintiff opened her door Arzberger, who was naked, dazed and without a room key, allegedly pushed his way into Plaintiff's room and began choking her. Security quickly arrived and asked Arzberger to go back into his room. Police arrived and Arzberger was arrested without further incident. He had no recollection of the incident in Plaintiff's room. At arraignment on the criminal complaint, Arzberger was released on \$100,000 bail and his passport was surrendered. We expect to set a criminal trial date at the next court appearance on August 20. Hotel and other video surveillance reveals that Arzberger was likely been drugged by the person he brought back to his room in the hours preceding the assault upon Plaintiff. As a result of this suspected drugging, property was stolen from Arzberger. A suspect identified by surveillance cameras has been arrested and indicted for Grand Larceny, Conspiracy and other offenses in New York County.

The parties do not consent to a trial before a magistrate judge and request that this matter be tried before a jury.

Respectfully submitted,



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